

EXHIBIT A

In The Matter Of:

In re

Jeffrey R. Modica, et al., Debtors

JEFFREY R. MODICA

December 18, 2013

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		Page 1	Page 3						
1	IN THE UNITED STATES BANKRUPTCY COURT FOR THE NORTHERN DISTRICT OF ILLINOIS EASTERN DIVISION								
2									
3	In re:) Chapter 7								
4) JEFFREY R. MODICA,								
5) KATARZYNA A. MODICA								
6	Katie Modica,) Case No. 08-14633								
7	Debtors.) Honorable Judge Donald R.								
8) Cassling								
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10									
11	The deposition of JEFFREY R. MODICA, taken								
12	in the above-entitled cause before Denielle P.								
13	Mathys, CSR, and Notary Public within and for the								
14	County of Kane and State of Illinois, taken pursuant								
15	to the Federal Code of Civil Procedure for the								
16	United States Bankruptcy Court, Northern District of								
17	Illinois, Eastern Division, at 150 North Michigan								
18	Avenue, Suite 2130, in the City of Chicago,								
19	Illinois, on December 18, 2013, at the hour of								
20	9:26 a.m.								
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22									
23									
24									
		Page 2	Page 4						
1	A P P E A R A N C E S :								
2									
3	ADDUCCI, DORF, LEHNER, MITCHELL &								
4	BLANKENSHIP, P.C.								
5	BY: MR. MARSHALL L. BLANKENSHIP								
6	150 North Michigan Avenue, Suite 2130								
7	Chicago, Illinois 60601								
8	(312) 781-2800								
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10	On behalf of Green Tree								
11	Servicing LLC;								
12									
13	SULAIMAN LAW GROUP, LTD.								
14	BY: MR. MOHAMMED O. BADWAN								
15	900 Jorie Boulevard, Suite 150								
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17	(630) 575-8181								
18	mbadwan@sulaimanlaw.com								
19	On behalf of the Debtors.								
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1	I N D E X								
2	WITNESS EXAMINATION		DX	CX	RDX	RCX			
3	JEFFREY R. MODICA								
4	BY MR. BLANKENSHIP		4	85					
5	BY MR. BADWAN								
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7									
8	E X H I B I T S								
9	DEPOSITION EXHIBITS								
10	J. Modica Exhibit No. 1								
11	J. Modica Exhibit No. 2								
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Page 5	Page 6	Page 7
<p>1 Q If you don't understand a question, please 2 let me know, and I'll try to rephrase it for you. 3 A Okay. 4 Q We can't speak at the same time because 5 the court reporter has to type it down. So I ask 6 that you let me finish my question before you give 7 your answer, and I'll try to let you finish your 8 answer before -- 9 A Sure. 10 Q -- I ask the next question. 11 And if you need to take a break at any 12 time, just let me know, okay? 13 A Sure. 14 Q Where do you live? 15 A In Addison. 16 Q What's your address? 17 A 240 South Villa Avenue in Addison, 18 Illinois. 19 Q How long have you lived there? 20 A Approximately 12 years. 21 Q And what is your birth date? 22 A June 6, 1976. 23 Q Are you married? 24 A Yes.</p>		<p>1 A Yes. 2 Q By whom? 3 A IM Electric Incorporated. 4 Q And what is your position? 5 A Foreman electrician. 6 Q How long have you been employed by 7 IM Electric? 8 A Approximately seven years. 9 Q When did you graduate from high school? 10 A 1994. 11 Q Did you do anything to prepare for today's 12 deposition? 13 A No, except for look over our paperwork 14 that you probably have a copy of. 15 Q Okay. What paperwork did you look over, 16 the motion that was filed on your behalf? 17 A Yeah, whatever the packet is that -- 18 MR. BLANKENSHIP: Let me mark this -- 19 MR. BADWAN: I object to the question. 20 It's kind of attorney-client privilege, what he did 21 to prepare for it. 22 MR. BLANKENSHIP: I don't want you to 23 disclose any communications you've had with your 24 counsel.</p>
	Page 6	Page 8
<p>1 Q How long have you been married? 2 A Approximately seven years. 3 Q Do you have any children? 4 A Yes. 5 Q How many? 6 A Three. 7 Q And boys, girls? 8 A Boys. 9 Q Three sons? 10 A Sons, yes. 11 Q And what are their ages? 12 A Ages 16, 6, and 4. 13 Q And do all three sons still live with you 14 and your wife? 15 A Yes. 16 Q And your wife lives with you in Addison? 17 A Correct. 18 Q What is your highest level of education? 19 A High school with vocational school in the 20 IBEW, Local 701, three years. 21 Q And what is the IBEW? 22 A International Brotherhood of Electrical 23 Workers. 24 Q Are you presently employed?</p>		<p>1 MR. BADWAN: Sure. 2 MR. BLANKENSHIP: But I think I am 3 entitled to know what documents you might have 4 reviewed. 5 MR. BADWAN: Sure. I just want to keep 6 the scope very limited to not anything that we 7 talked about. 8 MR. BLANKENSHIP: Right. I don't want 9 that. 10 Let's mark this as Modica Exhibit 1. 11 (J. Modica Exhibit No. 1 12 marked for identification.) 13 BY MR. BLANKENSHIP: 14 Q Let me show you what we've marked as 15 Modica Exhibit 1. Do you recognize this as your 16 motion for sanctions against Green Tree? 17 A Yes. 18 Q Is this the document that you looked at to 19 prepare for today's deposition? 20 A Yes, pretty much the phone conversations 21 and things like that. 22 Q Okay. Did you look at any records 23 reflecting the dates of any phone calls with Green 24 Tree?</p>

<p style="text-align: right;">Page 9</p> <p>1 A The dates? I was trying to remember when 2 the things happened, so I browsed this right here.</p> <p>3 Q Did you look at anything other than 4 Exhibit 1?</p> <p>5 A No.</p> <p>6 Q Okay. And you met with your counsel, 7 correct?</p> <p>8 A Previous to today?</p> <p>9 Q To prepare for today's deposition?</p> <p>10 A Correct.</p> <p>11 Q Okay. And when was that?</p> <p>12 A Yesterday.</p> <p>13 Q And how long did you meet with counsel?</p> <p>14 A Ten minutes.</p> <p>15 Q Okay. And was anyone else present?</p> <p>16 A Just me and my wife.</p> <p>17 Q Now, you own the property located at 18 240 South Villa Avenue in Addison?</p> <p>19 A Correct.</p> <p>20 Q In whose name is that property titled?</p> <p>21 A Mine.</p> <p>22 Q And you bought that property in 23 approximately 2001?</p> <p>24 A Correct.</p>	<p style="text-align: right;">Page 11</p> <p>1 Q And that second loan was secured by a 2 junior mortgage on your Addison property?</p> <p>3 A Correct.</p> <p>4 Q You filed for bankruptcy on June 6, 2008?</p> <p>5 A Yep.</p> <p>6 Q And that was just shortly after you had 7 obtained that second mortgage from Countrywide, 8 correct?</p> <p>9 A Correct. It must have been, yeah.</p> <p>10 Q Okay. About a month after?</p> <p>11 A I think so, yeah. It was both -- it was 12 pretty close.</p> <p>13 Q Okay. Who was your lawyer at the time 14 that you filed for bankruptcy?</p> <p>15 A Martucci, I believe, in Roselle.</p> <p>16 Q And when did you retain the Sulaiman Law 17 Group to represent you?</p> <p>18 A Not until we needed guidance with the 19 whole foreclosure thing. And we didn't know what we 20 were doing at the time, and I needed somebody who 21 knows what they're doing to talk to.</p> <p>22 Q And do you recall when that was?</p> <p>23 A You know what, the initial meeting I 24 don't, the exact date.</p>
<p style="text-align: right;">Page 10</p> <p>1 Q And did you obtain a mortgage when you 2 purchased the property?</p> <p>3 A Yes.</p> <p>4 Q From whom?</p> <p>5 A At the time I believe it was Countrywide.</p> <p>6 Q Okay. How much was that initial loan for?</p> <p>7 A I want to say 198,000, approximately.</p> <p>8 Q Okay. And then in May of 2008, you 9 obtained a second mortgage on the property?</p> <p>10 A Yes.</p> <p>11 Q And that was also from Countrywide?</p> <p>12 A I'm not sure on the exact date of the 13 second mortgage, but yes, we did obtain a second 14 mortgage from Countrywide.</p> <p>15 Q Okay. Some years after --</p> <p>16 A Yes.</p> <p>17 Q -- your initial purchase?</p> <p>18 A Exactly.</p> <p>19 Q And the second mortgage was also from 20 Countrywide?</p> <p>21 A I believe so, yes.</p> <p>22 Q And the amount of that second mortgage was 23 approximately 51,000?</p> <p>24 A Correct.</p>	<p style="text-align: right;">Page 12</p> <p>1 Q Your motion was filed on July 2, 2013. 2 Does that help you put a time to when you first 3 retained Sulaiman?</p> <p>4 A July 2nd? It had to be within the months 5 approximately before that obviously. I'm not 6 sure --</p> <p>7 Q Okay. So sometime --</p> <p>8 A -- exactly the date.</p> <p>9 Q Okay. So sometime between, say, May and 10 July of 2013?</p> <p>11 A Approximately. I mean, I'm not sure, to 12 be honest with you.</p> <p>13 Q I understand.</p> <p>14 MR. BADWAN: If you're not sure, just say 15 you're not sure.</p> <p>16 A I'm just not sure on the date, to be 17 honest with you.</p> <p>18 BY MR. BLANKENSHIP:</p> <p>19 Q That's fine. Now, at the time you filed 20 for bankruptcy on June 6, 2008, you were current on 21 both of your Countrywide loans; is that correct?</p> <p>22 A Correct. Yes.</p> <p>23 Q And when you filed for bankruptcy, was it 24 your intent to stay in your home?</p>

<p style="text-align: right;">Page 13</p> <p>1 A At the time, yes.</p> <p>2 Q But you did not reaffirm your Countrywide 3 debts in the bankruptcy proceeding, correct?</p> <p>4 A Correct --</p> <p>5 MR. BADWAN: Could you please explain what 6 reaffirming a debt really means?</p> <p>7 MR. BLANKENSHIP: Sure.</p> <p>8 MR. BADWAN: Because as you know, we 9 weren't the counsel for the bankruptcy.</p> <p>10 MR. BLANKENSHIP: Yes, that's fine.</p> <p>11 BY MR. BLANKENSHIP:</p> <p>12 Q When you file for bankruptcy, you can 13 reaffirm a debt. You acknowledge that the debt 14 exists and will continue, and you have the option to 15 do that with certain debts I think by checking a box 16 on a form.</p> <p>17 Do you recall -- and I think the records 18 reflect that you did not reaffirm your loans.</p> <p>19 A Let me answer like this. I don't believe 20 so, but I don't -- I'm under oath, and I don't -- 21 I'm not a hundred percent sure that -- I don't want 22 a box being -- I'm not sure.</p> <p>23 Q That's fine. You're not sure. I 24 understand.</p>	<p style="text-align: right;">Page 15</p> <p>1 of 2008.</p> <p>2 Q Who holds your -- the first mortgage on 3 your property now, the first Countrywide loan?</p> <p>4 A It was Bank of America, but not right now 5 because we had a modification on the first loan just 6 recently, and it's Bayview now.</p> <p>7 Q When did you obtain the modification on 8 the first loan?</p> <p>9 A Let's see, it's been almost -- they 10 contacted us when they took over for Bank of 11 America, and that was, I want to say, almost about a 12 year ago, give or take a month or so.</p> <p>13 Q And why did you enter into a loan 14 modification of your first loan?</p> <p>15 A Why?</p> <p>16 Q Yeah.</p> <p>17 A Because they contacted me and told me 18 that, you know, you can do this, this, your payment 19 could drop to this. And it'll -- you know, it'll 20 work out because Bank of America wasn't doing 21 anything.</p> <p>22 Q Did you have any issue with Bayview 23 contacting you about bringing you this option of 24 modifying your loan?</p>
<p style="text-align: right;">Page 14</p> <p>1 A Yeah, I'm not --</p> <p>2 MR. BADWAN: Can I rephrase the question, 3 or I'll help get to the bottom of the question?</p> <p>4 MR. BLANKENSHIP: Sure.</p> <p>5 MR. BADWAN: Do you recall your bankruptcy 6 attorney ever telling you, "Jeff and Kate, if you 7 guys sign this, that means you're still on the hook 8 for this debt"?</p> <p>9 THE WITNESS: No, I don't.</p> <p>10 MR. BADWAN: It must have been a packet 11 about eight to ten pages.</p> <p>12 THE WITNESS: No, I don't. I don't 13 remember that.</p> <p>14 BY MR. BLANKENSHIP:</p> <p>15 Q Did you want -- did you want to stay in 16 your home at the time you filed for bankruptcy?</p> <p>17 A At the time we were paying the mortgage, 18 we were current with the mortgage, and we were 19 taking it from there.</p> <p>20 Q Did you want to stay in your home?</p> <p>21 A Yes, I mean . . .</p> <p>22 Q And then you received your discharge on 23 September 9, 2008, correct?</p> <p>24 A Correct. Approximately, yes, in September</p>	<p style="text-align: right;">Page 16</p> <p>1 A Did I have an issue with it?</p> <p>2 Q Yeah.</p> <p>3 A No, not at all.</p> <p>4 Q You didn't think that was a violation of 5 your discharge order in your bankruptcy?</p> <p>6 A No. They were just trying to help.</p> <p>7 Q Okay. And I'm going to talk about the 8 second mortgage, which is the Countrywide mortgage 9 that Green Tree now owns.</p> <p>10 A Sure.</p> <p>11 Q You understood when you got your -- filed 12 for your bankruptcy and got your discharge that the 13 mortgage lien on the property was not affected by 14 your bankruptcy, right?</p> <p>15 A Could you rephrase? I'm not sure I --</p> <p>16 Q Sure. Sure. You understood that 17 Countrywide could foreclose on the mortgage on your 18 property in the event payments were not made on the 19 loan notwithstanding the fact that you had gone 20 through bankruptcy, correct?</p> <p>21 A Yes.</p> <p>22 Q And you understood that if Countrywide 23 pursued foreclosure, it could force you from your 24 home, correct?</p>

<p style="text-align: right;">Page 17</p> <p>1 A On the second?</p> <p>2 Q Yes.</p> <p>3 A Yes.</p> <p>4 Q And you understood at the time you got 5 your discharge that if you did not make regular 6 payments to Countrywide, Countrywide would foreclose 7 on its mortgage lien, correct?</p> <p>8 A Correct.</p> <p>9 Q And then after you received your 10 discharge, you continued to make regular payments on 11 your Countrywide loan, correct?</p> <p>12 A Correct.</p> <p>13 Q And do those payments run the amount of 14 \$374.59 a month?</p> <p>15 A I believe that was the amount, yes.</p> <p>16 Q And you made those payments on your 17 Countrywide loan so Countrywide would not foreclose 18 on its mortgage lien?</p> <p>19 A I made them on both, yes.</p> <p>20 Q Okay. Both the --</p> <p>21 A First and second.</p> <p>22 Q Second.</p> <p>23 A So the total payment was \$2,064 or 24 something like that.</p>	<p style="text-align: right;">Page 19</p> <p>1 A Correct.</p> <p>2 Q And you made those payments so Green Tree 3 would not foreclose on its mortgage, correct?</p> <p>4 A Well, yeah, we made them to stay -- I 5 mean, because we were -- to keep up on our mortgage, 6 yes.</p> <p>7 Q Yeah. Because you didn't want Green Tree 8 to foreclose, right?</p> <p>9 A Right.</p> <p>10 Q Did you stop making payments on your first 11 mortgage at any point?</p> <p>12 A Same exact time.</p> <p>13 Q And at that point, had the Countrywide 14 loan been transferred -- the first mortgage been 15 transferred to Bank of America at the time you 16 stopped making payments?</p> <p>17 A I'm not sure when that mortgage got 18 transferred or anything like that. I couldn't tell 19 you the date.</p> <p>20 Q Why did you stop making payments on your 21 mortgages after your approximate September 2011 22 payment?</p> <p>23 A Unfortunately, we had a reduction in 24 income, and I exhausted my savings account. And I</p>
<p style="text-align: right;">Page 18</p> <p>1 Q Okay. And then the servicing of the 2 second Countrywide loan was transferred to Green 3 Tree. Do you recall that happening?</p> <p>4 A Yes, I remember it got transferred, and we 5 started getting Green Tree statements instead of the 6 Countrywide.</p> <p>7 Q Okay. And you then continued to make 8 those regular payments of \$374.59 to Green Tree?</p> <p>9 A Correct.</p> <p>10 Q And the loan was transferred to Green Tree 11 in March of 2011. Does that sound right?</p> <p>12 A You know what, I couldn't tell you when it 13 was transferred.</p> <p>14 Q Fair enough, okay. Now, in September 2011 15 you made your last payment to Green Tree on the 16 second loan, correct?</p> <p>17 A September, October, somewhere around 18 there, yes, 2011.</p> <p>19 Q So you had made regular monthly payments 20 on your second Countrywide loan for approximately 21 three years after the discharge, right?</p> <p>22 A Correct.</p> <p>23 Q Okay. And you made those payments so you 24 could stay in your home, right?</p>	<p style="text-align: right;">Page 20</p> <p>1 had to pull my annuity because the \$2,000 a month, I 2 was robbing Peter to pay Paul just to keep afloat.</p> <p>3 Q What caused the reduction in income?</p> <p>4 A My wife, she stopped working, you know, a 5 few years back. And we had a savings account that 6 allowed me to keep afloat. You know, when I was 7 short this month, I'd take it, transfer it and was 8 able to keep afloat, you know.</p> <p>9 Q Okay. And when you stopped making 10 payments on your mortgages, you understood that 11 Green Tree could foreclose on its lien, right?</p> <p>12 A Yes. I had no choice.</p> <p>13 Q Okay. Did that bother you?</p> <p>14 A Did it bother me?</p> <p>15 Q Yeah.</p> <p>16 A Well, of course. I have a family.</p> <p>17 Q But you stayed in the house, correct?</p> <p>18 A When?</p> <p>19 Q At the time you stopped making payments to 20 today, you've continued to live in the house, right?</p> <p>21 A Correct.</p> <p>22 Q So you've essentially lived in your home 23 for free for the last two years?</p> <p>24 A It wasn't exactly two years, but I know</p>

<p>1 what you're getting at, yes.</p> <p>2 Q Since you stopped making payments?</p> <p>3 A While things were being -- yes.</p> <p>4 Q Do you want to keep your home today?</p> <p>5 A Do I want to?</p> <p>6 Q Yeah.</p> <p>7 A Now, yes.</p> <p>8 Q Have you made any efforts to find a new place to live?</p> <p>10 A Yes. We were already actually packed up and ready to go before Bayview, like I told you, approximately a year ago had contacted us saying that they took over for Bank of America, and let's try to get something done.</p> <p>15 I sold my -- well, I'm not going to elaborate, but yeah, we made arrangements.</p> <p>17 Q So when was that? When did you make the arrangements to move out?</p> <p>19 A Let's see, they contacted us about approximately a year ago, so, you know, a few months before that.</p> <p>22 Q So in the late summer of 2012?</p> <p>23 A Approximately.</p> <p>24 Q And then --</p>	<p>Page 21</p> <p>1 payment. And Katie mentioned that there are options 2 that you can do, but I wasn't interested at that 3 point.</p> <p>4 Q Was this before or after you had begun 5 discussions with Bayview about the loan modification 6 for your first mortgage?</p> <p>7 A This was before.</p> <p>8 Q Did you ever discuss a loan modification 9 with anyone at Green Tree?</p> <p>10 A No. Except what I just explained to you, 11 that was the only -- and they were the party that 12 was suggesting any type of thing like that at that 13 point.</p> <p>14 Q Have you considered a loan modification 15 with Green Tree?</p> <p>16 A Like, when?</p> <p>17 Q At any time. Have you considered asking 18 Green Tree for a loan modification?</p> <p>19 A No, because at that point in time when all 20 this was happening, I already wrote -- once I 21 stopped paying, and we went through this, I already 22 wrote -- I was ready to move out.</p> <p>23 Q Right. But then you did reach a loan 24 modification on your first mortgage, and --</p>
<p>Page 22</p> <p>1 A Going back I can't tell you the exact date 2 but . . .</p> <p>3 Q That's fine. And then once you made 4 arrangements with Bayview to decrease the amount of 5 your payments on the first mortgage, you decided to 6 stay?</p> <p>7 A Correct.</p> <p>8 Q After you filed for bankruptcy, did you 9 ever tell anyone at Green Tree that you wanted to 10 stay in your home?</p> <p>11 A No.</p> <p>12 Q Did you ever tell anyone at Green Tree 13 that you didn't want Green Tree to foreclose?</p> <p>14 A No.</p> <p>15 Q Did you ever attempt to arrange a payment 16 schedule with Green Tree?</p> <p>17 A No. The only time that anything like that 18 was discussed was during one of the times that they 19 called, and I did happen to answer. And I talked to 20 the lady, Katie Ferguson I believe her name was, and 21 her supervisor was on the phone at the same time. 22 And they were trying to get me to pay something, 23 anything at that time, pressuring me that while they 24 had me on the phone that they would accept a</p>	<p>Page 22</p> <p>1 A This was just -- you know, it just got 2 approved. You have to go through a trial thing, and 3 then you get your final approval, which that was 4 extended by three months, after my three-month 5 trial. So this just finished up probably four 6 months ago approximately.</p> <p>7 Q But at the time a year ago when you began 8 the modification process with Bayview, did you 9 consider entering into the same process with Green 10 Tree?</p> <p>11 A To be totally honest with you, I wasn't 12 sure how anything works with my situation at the 13 time, and that didn't even cross my mind at any 14 time, really.</p> <p>15 Q Okay. I've shown you what we've marked as 16 Exhibit 1, which is your motion. Did you review 17 Exhibit 1 before it was filed?</p> <p>18 A I believe so.</p> <p>19 Q And are the statements in Exhibit 1 20 truthful and accurate?</p> <p>21 A As far as I know, to the best of my 22 knowledge, yes.</p> <p>23 Q Okay. Let's look at paragraph 22, please, 24 on page 4.</p>

<p>1 A Yes.</p> <p>2 Q And in that paragraph you say,</p> <p>3 "Immediately after Debtors stopped paying the</p> <p>4 subject debt, Green Tree began calling them</p> <p>5 requesting payment. Green Tree continued to call</p> <p>6 even after the Debtors advised them of the</p> <p>7 bankruptcy."</p> <p>8 And then in the next paragraph,</p> <p>9 paragraph 23, you state, "After their bankruptcy</p> <p>10 discharge, in total, Debtors received over one</p> <p>11 hundred (100) calls from a representative of Green</p> <p>12 Tree by the name of 'Katie Ferguson' . . . calling</p> <p>13 from (800)234-7101, to collect upon the subject</p> <p>14 debt."</p> <p>15 Do you have any records of any of the</p> <p>16 calls that you received from Green Tree after your</p> <p>17 bankruptcy discharge?</p> <p>18 A Yes.</p> <p>19 Q What kind of records do you have?</p> <p>20 A Phone records.</p> <p>21 Q What specific phone records? Your phone</p> <p>22 bills do you mean or what kind of phone records are</p> <p>23 you referring to?</p> <p>24 A Yes. Our cell phone -- the phones that</p>	<p>Page 25</p> <p>1 Q Okay. Aside from the notes you've just</p> <p>2 referred to and the cell phones, any other --</p> <p>3 A No, that's pretty much -- that's all.</p> <p>4 Q Do you have any recordings of any of your</p> <p>5 telephone calls or voicemails?</p> <p>6 A No, no.</p> <p>7 MR. BLANKENSHIP: I know the notes have</p> <p>8 not been produced, and I don't think the cell phone</p> <p>9 records have been produced either for this</p> <p>10 particular party so if you can order that.</p> <p>11 MR. BADWAN: Yeah. I think those were</p> <p>12 part of the 137, so I'll look into that.</p> <p>13 MR. BLANKENSHIP: Now, let's mark this as</p> <p>14 Modica Exhibit 2, please.</p> <p>15 (J. Modica Exhibit No. 2</p> <p>16 marked for identification.)</p> <p>17 BY MR. BLANKENSHIP:</p> <p>18 Q Let me show you what we've marked as</p> <p>19 Modica Exhibit 2. Do you recognize that as your</p> <p>20 response to Green Tree's interrogatories?</p> <p>21 A Yes.</p> <p>22 Q And did you review Exhibit 2 before it was</p> <p>23 served to Green Tree?</p> <p>24 A Yes.</p>	<p>Page 27</p>
<p>1 were being called.</p> <p>2 Q And you have those phone bills in your</p> <p>3 possession?</p> <p>4 A Yes. I mean, not today.</p> <p>5 Q Right, I know.</p> <p>6 A Oh, okay, sorry.</p> <p>7 Q And aside from your cell phone bills, do</p> <p>8 you have any other records of phone calls between</p> <p>9 you or your wife and Green Tree?</p> <p>10 A As far as -- I'm not understanding. What?</p> <p>11 Q Do you have any notes of any calls? Did</p> <p>12 you make any notations about any calls?</p> <p>13 A Not -- no, not really.</p> <p>14 Q Well, at all?</p> <p>15 A I mean, we wrote down that they kept</p> <p>16 calling daily.</p> <p>17 Q Okay. And where --</p> <p>18 A Between what -- you know, figure -- what</p> <p>19 months and things like that.</p> <p>20 Q Where did you write that down?</p> <p>21 A At -- just at home.</p> <p>22 Q And do you still have those notes?</p> <p>23 A I'm not sure, to be honest with you. My</p> <p>24 wife takes care of the paper, I don't.</p>	<p>Page 26</p> <p>1 Q And are the answers in Exhibit 2 truthful</p> <p>2 and accurate?</p> <p>3 A Yes.</p> <p>4 Q Okay. On the second page -- I'm sorry,</p> <p>5 No. 6, yeah, on the second page, do you see we ask</p> <p>6 you for each telephone call, we ask for certain</p> <p>7 information.</p> <p>8 And then in your response you say,</p> <p>9 "Without waiving those objections, Debtors state</p> <p>10 that from late October 2011 to late May 2012, they</p> <p>11 received up to 5 calls per day from Katie Ferguson.</p> <p>12 These calls were placed to Debtor Jeff Modica's cell</p> <p>13 phone. Debtor Katarzyna Modica also received up to</p> <p>14 5 calls per day from Ms. Ferguson during the same</p> <p>15 period."</p> <p>16 Did you personally receive between one and</p> <p>17 five calls on each day between late October 2011 and</p> <p>18 late May 2012 on your cell phone?</p> <p>19 A I can't say that it's every day, but</p> <p>20 believe me, it was almost every day, and it was at</p> <p>21 least once a day, sometimes multiple times a day.</p> <p>22 That's for sure.</p> <p>23 Q And those calls would be reflected on the</p> <p>24 phone bills that you have?</p>	<p>Page 28</p>

Page 29	Page 31
<p>1 A No, because we bounced calls. She would 2 call every single day. I was at work. I was 3 running a million-dollar job at the time. I would 4 get calls, and I'd see the number, and I'd bounce 5 the call. And, unfortunately, because I tried to, 6 our -- Verizon, it doesn't register when you don't 7 answer the phone call and physically speak to the 8 person. It won't register as -- even if she leaves 9 me a voicemail because she's left multiple 10 voicemails.</p> <p>11 Q I don't know what you mean by bounced the 12 call.</p> <p>13 A Hit the button, so it rejects the call.</p> <p>14 Q Rejects the call?</p> <p>15 A Goes straight to voicemail.</p> <p>16 Q And this is on your cell phone?</p> <p>17 A Yes.</p> <p>18 Q So you would see a call come in from Green 19 Tree, and did it identify Green Tree as the caller?</p> <p>20 A No.</p> <p>21 Q How did you know it was from Green Tree?</p> <p>22 A I know the number she called so much.</p> <p>23 Q Okay. And you would not take the call?</p> <p>24 A Correct.</p>	<p>1 A (630)625-2000.</p> <p>2 Q Okay. And what number was your wife 3 getting calls on?</p> <p>4 A (630)625-2342.</p> <p>5 Q And do you have a land line?</p> <p>6 A No.</p> <p>7 Q And it looks like from the motion, 8 paragraph 23, you allege that the calls came from 9 (800)234-7101. Is that --</p> <p>10 A I believe that's the number. Off the top 11 of my head --</p> <p>12 MR. BADWAN: 23. I'm sorry. That's 13 Exhibit 1 and that's Exhibit 2.</p> <p>14 A If that's written down correctly, yes, 15 then that's the correct number.</p> <p>16 BY MR. BLANKENSHIP:</p> <p>17 Q Okay. Now, how many times after your 18 discharge did you personally speak with someone from 19 Green Tree?</p> <p>20 A It was only a couple times.</p> <p>21 Q Two times?</p> <p>22 A I'm under oath, so approximately two 23 times.</p> <p>24 Q Okay. Do two conversations stand out in</p>
Page 30	Page 32
<p>1 Q And --</p> <p>2 A I was at work. Very busy.</p> <p>3 Q Okay. So what -- you said that your phone 4 records did show calls. What calls are actually 5 shown on the records?</p> <p>6 A It did register the 50 -- I believe 7 54-minute phone call that I expressed to you 8 earlier. And there was another couple, I believe, 9 that did register because my wife had called them 10 when they had called our neighbor looking for me.</p> <p>11 Q So the only calls that are reflected on 12 your phone bills --</p> <p>13 A Are when --</p> <p>14 Q -- are where you actually had a 15 conversation, correct?</p> <p>16 A Correct. I believe so, yes.</p> <p>17 Q Okay. And what numbers did you receive 18 calls from Green Tree on?</p> <p>19 A 800 numbers. There's one number --</p> <p>20 Q I'm sorry, your numbers. What number did 21 you --</p> <p>22 A Oh, I'm sorry.</p> <p>23 Q That was my fault. What phone number of 24 yours were you getting the calls from Green Tree on?</p>	<p>1 your head or --</p> <p>2 A Well, this is between -- me personally?</p> <p>3 Q Yes, you personally?</p> <p>4 A I remember the one 54-minute phone call.</p> <p>5 Q I know your wife had separate calls --</p> <p>6 A Correct.</p> <p>7 Q -- but I'm just asking about your calls 8 now.</p> <p>9 A Yes.</p> <p>10 Q So you recall one distinct conversation 11 with Green Tree after your bankruptcy?</p> <p>12 A Correct.</p> <p>13 Q Okay. Do you recall when that was?</p> <p>14 A Approximately in December, I believe.</p> <p>15 Q Okay.</p> <p>16 A Of 2011.</p> <p>17 Q And did you take any notes of that 18 conversation?</p> <p>19 A No, I didn't take any notes.</p> <p>20 Q Let's look at your motion again, 21 Exhibit 1, and paragraph 27.</p> <p>22 MR. BADWAN: So next page.</p> <p>23 A Okay.</p> <p>24</p>

<p>1 BY MR. BLANKENSHIP:</p> <p>2 Q And you allege, "On November 12, 2011, 3 after Green Tree contacted the Debtors' neighbor, 4 the Debtors called Katie Ferguson and spoke to her 5 twice that day"</p> <p>6 Did you personally speak with Ferguson on 7 November 12, 2011?</p> <p>8 A I believe that that was the day that my 9 wife had called them.</p> <p>10 Q Okay. Was that the first time that either 11 you or your wife had spoken with someone at Green 12 Tree?</p> <p>13 A I believe -- going back, I think -- I want 14 to say one of us spoke with them previously because 15 we -- they were calling before that, you know what I 16 mean.</p> <p>17 Q Do you have a recollection of that, you 18 personally?</p> <p>19 A I don't remember a phone conversation, no. 20 I don't remember that far back.</p> <p>21 Q Okay. Now, I'm going to ask a slightly 22 different question. I asked if you had any 23 conversations with Green Tree, and you've given your 24 answer to that. Now my question is between your</p>	<p>Page 33</p> <p>1 Q Okay. And that was the content of each 2 call?</p> <p>3 A Most of the time, yes.</p> <p>4 Q Do you recall any voicemails that had a 5 content other than what you've just told me?</p> <p>6 A Not necessarily, no.</p> <p>7 Q Okay. And did you ever do anything in 8 response to those voicemails?</p> <p>9 A As far as?</p> <p>10 Q Call her back?</p> <p>11 A The time that I spoke with them.</p> <p>12 Q Okay. In December?</p> <p>13 A Right.</p> <p>14 Q Why didn't you call her back before 15 December if you were getting these calls?</p> <p>16 A I might have, that's what I said. Going 17 back, I don't recall a specific phone conversation, 18 but I believe that either me and my wife did speak 19 with them at the beginning because that's how we 20 knew they kept calling, they kept calling, kept 21 calling, kept calling.</p> <p>22 Q Did you think she was calling about the 23 status of your home?</p> <p>24 A About the status?</p>
<p>Page 34</p> <p>1 discharge on September 8, 2008, and November 12, 2 2011, did you personally receive calls from Green 3 Tree that may not have ended in a conversation?</p> <p>4 A Were they calling me?</p> <p>5 Q Yes.</p> <p>6 A Yes.</p> <p>7 Q Okay. And do you know how many calls you 8 received between your discharge and November 12th?</p> <p>9 A Multiple -- I mean, I can't count 10 obviously. A lot of calls.</p> <p>11 Q And none of those you answered?</p> <p>12 A Right. Correct.</p> <p>13 Q Okay. And --</p> <p>14 A But she did leave voicemails.</p> <p>15 Q Well -- and you don't have any notes of 16 where you've transcribed or made a notation of the 17 content of any of those voicemails, correct?</p> <p>18 A No, but I remember exactly what she says 19 every time.</p> <p>20 Q Okay. What did she say every time?</p> <p>21 A Jeff, this is Katie Ferguson from Green 22 Tree. You need to give me a call back at this 23 number. I think she left her extension. It is very 24 important.</p>	<p>Page 36</p> <p>1 Q Yeah.</p> <p>2 A What do you mean?</p> <p>3 Q What did you think she was calling about?</p> <p>4 A To get a payment.</p> <p>5 Q And you just kind of assumed that from the 6 message?</p> <p>7 A Well -- or, like I said, either one of us 8 spoke with them previously, and obviously they -- 9 during the 54-minute phone conversation, they 10 expressed what they were trying to get.</p> <p>11 Q We'll get to that one.</p> <p>12 A Okay.</p> <p>13 Q I'm just now focused on the voicemails 14 between your discharge and when your wife had that 15 first conversation on November 12th.</p> <p>16 A Sure, okay.</p> <p>17 Q So one of you may have called Green Tree, 18 but you don't have any specific -- prior to November 19 12th --</p> <p>20 A Or answered the phone call.</p> <p>21 Q Okay. But you don't have any specific 22 recollection of you doing that?</p> <p>23 A To be honest with you, no. I don't 24 remember a specific conversation with her.</p>

<p>1 Q Okay. Do you know who initiated, whether 2 your wife initiated the call on November 12th with 3 Green Tree?</p> <p>4 A What's the question?</p> <p>5 Q Sure. You've alleged that Green Tree 6 contacted the neighbor. Then the debtors called 7 Katie Ferguson.</p> <p>8 A Correct.</p> <p>9 Q And I guess is it your testimony it's your 10 wife who called Katie Ferguson at that time?</p> <p>11 A Yes.</p> <p>12 Q Okay. Did you have any discussion with 13 your wife prior to her calling Green Tree?</p> <p>14 A Oh, yes.</p> <p>15 Q What was that discussion?</p> <p>16 A We were flabbergasted that the call was 17 made to our neighbor, and we were upset about it.</p> <p>18 Q Okay. We'll get to that call in a bit.</p> <p>19 As of November 12, 2011, did you want to 20 avoid foreclosure on your home?</p> <p>21 A As of November 12th?</p> <p>22 Q Yes, the day of this call.</p> <p>23 A Well, when we stopped paying, we didn't 24 know what was going to -- I was planning on losing</p>	<p>Page 37</p> <p>1 weren't the person that made the second call on 2 November 12th.</p> <p>3 A I don't believe so, no.</p> <p>4 Q Okay. Then move down to paragraph 30 5 where you allege, "After the calls continued, and 6 more than a month after the Debtors personally 7 advised Green Tree of their bankruptcy, on 8 December 20, 2011, the Debtors once again returned 9 Katie Ferguson's voicemail to notify her of their 10 bankruptcy."</p> <p>11 Is that the call that you had with Green 12 Tree on November 20, 2011?</p> <p>13 A I believe so. That's probably the 14 54-minute phone conversation.</p> <p>15 Q Okay. So that -- so the call on 16 December 20th was the first conversation that you've 17 had with Green Tree after your bankruptcy discharge?</p> <p>18 A I believe so.</p> <p>19 Q And am I correct to assume you had 20 received voicemails from Katie Ferguson between 21 November 12, 2011, and when you had the conversation 22 on December 20, 2011?</p> <p>23 A Correct.</p> <p>24 Q What prompted you to call -- did you call</p>
<p>Page 38</p> <p>1 the house.</p> <p>2 Q Did you ever respond to any of the 3 voicemails to tell Green Tree, you know, "Stop 4 calling. We don't want the house. I've planned to 5 lose the house," anything to that effect?</p> <p>6 A No.</p> <p>7 Q Were you present when your wife called 8 Green Tree?</p> <p>9 A I don't believe so.</p> <p>10 Q Okay. And did your wife tell you about 11 her call with Green Tree?</p> <p>12 A Not specifics. She --</p> <p>13 Q What did she tell you generally?</p> <p>14 A That she called them and let them know 15 that they shouldn't be calling our neighbors.</p> <p>16 Q Okay. And there was -- you allege there 17 was a second call on November 12th. Was that also 18 your wife? It says and spoke to her twice --</p> <p>19 ". . . Debtors called Katie Ferguson and spoke to 20 her twice that day"</p> <p>21 A Yes. You would probably -- to get the 22 details on this phone conversation, because it was 23 my wife, she would know a lot more than I would.</p> <p>24 Q That's fine. I just want to make sure you</p>	<p>Page 38</p> <p>1 on --</p> <p>2 A I don't know if I happened to answer the 3 phone when they called or I called them back. I 4 can't recall that. I can -- the phone records will 5 show it, though.</p> <p>6 Q Okay.</p> <p>7 A Like, I don't know if they called me three 8 times that day and I called them back, or I just, 9 like I said, happened to answer the phone when they 10 made another call.</p> <p>11 Q So you personally spoke with Ms. Ferguson 12 on December 20, 2011, right?</p> <p>13 A Correct.</p> <p>14 Q Was anyone else on the line besides you 15 and her?</p> <p>16 A No. I'm on a cell phone.</p> <p>17 Q So it was just the two of you on the call?</p> <p>18 A I believe so, unless someone was on her 19 end.</p> <p>20 Q Where were you at when you had the call?</p> <p>21 A I believe I was home.</p> <p>22 Q Do you know what time the call was?</p> <p>23 A It was in the evening probably because I 24 work, so it was probably in the evening after, say,</p>

<p>1 5:00.</p> <p>2 Q Okay. 5:45?</p> <p>3 A I'm guessing. I mean --</p> <p>4 Q How about 5:45, does that sound about</p> <p>5 right?</p> <p>6 A Right. It could be, yes.</p> <p>7 Q And that call lasted about an hour?</p> <p>8 A I believe 54 minutes.</p> <p>9 Q And you don't know if you called or they</p> <p>10 called you, but why did you choose to speak with</p> <p>11 Green Tree on December 20, 2011?</p> <p>12 A Well, after every phone call every day</p> <p>13 bothering me at work, bothering my wife, I don't</p> <p>14 know at that point, like I said, if I happened --</p> <p>15 like, "Hello," or if I called them to, you know,</p> <p>16 talk with them and see what's the chaos about.</p> <p>17 Q And when you refer to the --</p> <p>18 MR. BLANKENSHIP: I'm sorry, can you read</p> <p>19 back the answer?</p> <p>20 (Answer read as requested.)</p> <p>21 BY MR. BLANKENSHIP:</p> <p>22 Q When you testified about them bothering</p> <p>23 you and making phone calls, you're referring to the</p> <p>24 voicemails asking you to call them back, correct?</p>	<p>Page 41</p> <p>1 Q How long did the portion of the call with</p> <p>2 Ferguson last?</p> <p>3 A I couldn't honestly tell you that amount</p> <p>4 of -- duration of time.</p> <p>5 Q And, likewise, you can't tell me how long</p> <p>6 the portion with the manager lasted?</p> <p>7 A Exact minutes, I have -- it was a</p> <p>8 54-minute phone conversation. I couldn't tell you</p> <p>9 if I was on the -- I couldn't tell you honestly.</p> <p>10 Q Do you remember anything else that was</p> <p>11 said during this 54-minute phone conversation other</p> <p>12 than what you've already told me?</p> <p>13 A As far as?</p> <p>14 Q Anything that anyone said. I mean, this</p> <p>15 was a pretty long call, and you've told me in about</p> <p>16 20 seconds what was said.</p> <p>17 A Well, it was her explaining to me.</p> <p>18 Q What did she explain to you?</p> <p>19 A Any kind of payment I could make. She</p> <p>20 probably did it ten different ways.</p> <p>21 Q Did she explain why she wanted you to make</p> <p>22 a payment?</p> <p>23 A I don't recall. Obviously because I</p> <p>24 haven't been paying, I would assume.</p>
<p>Page 42</p> <p>1 A Correct.</p> <p>2 Q Okay. During this call on December 20,</p> <p>3 2011, what did you say to Ferguson and what did she</p> <p>4 say to you?</p> <p>5 A During the phone conversation?</p> <p>6 Q Yes.</p> <p>7 A All I remember is her trying to get a</p> <p>8 payment, and I believe she said if I made a couple</p> <p>9 payments, that would -- that would help out.</p> <p>10 And then when she was pressuring me to</p> <p>11 make a payment and I couldn't, she -- I don't -- it</p> <p>12 was her supervisor, I'm assuming, but a man got on</p> <p>13 the phone, and he started asking me questions and to</p> <p>14 the effect -- the thing that stands out, because I</p> <p>15 was agitated at the time, was when he was asking me</p> <p>16 what am I doing with all of my money because of not</p> <p>17 paying.</p> <p>18 At that point I told him the phone</p> <p>19 conversation's over, and I hung up.</p> <p>20 Q Okay. So at some point during the call</p> <p>21 you were transferred to a manager?</p> <p>22 A Yes.</p> <p>23 Q And Ferguson was off the line?</p> <p>24 A Correct.</p>	<p>Page 44</p> <p>1 Q Did she ask you if you wanted to stay in</p> <p>2 the house, if it was your intent to keep the house?</p> <p>3 A Yeah. I said no. Our bankruptcy</p> <p>4 discharged the loan.</p> <p>5 Q Well, I understand bankruptcy discharging</p> <p>6 the loan, but did she ask you if you wanted to stay</p> <p>7 in the house?</p> <p>8 A I believe so.</p> <p>9 Q Okay. And what did you tell her?</p> <p>10 A No.</p> <p>11 Q At what point in the conversation did you</p> <p>12 tell her that you didn't want to stay in the house?</p> <p>13 A I can't -- like I said, I can't recall. I</p> <p>14 mean, that was a long time ago. I can't recall the</p> <p>15 duration or when something was said. I mean, the</p> <p>16 phone conversation was probably recorded on their</p> <p>17 end. You can probably get the details. I know, you</p> <p>18 know, like what I told you we talked about, that I</p> <p>19 do know.</p> <p>20 Q What prompted you to -- the transfer to</p> <p>21 the manager?</p> <p>22 A I didn't prompt it.</p> <p>23 Q Yeah, but what --</p> <p>24 A She did.</p>

1 Q But what was said immediately before you 2 were transferred to the manager? 3 A I -- like I said, I don't -- I couldn't 4 tell you exactly what was said. I didn't take any 5 notes on the exact phone call at the time. I do 6 remember that once she was trying to get me to make 7 the payments and explaining to me what type of 8 payments, at that point after she was done doing 9 that is when she had him, I guess, get on the phone. 10 Q Did you tell Ferguson or the manager that 11 you were interested in a loan modification? 12 A No. 13 Q Did anyone raise the issue of a loan 14 modification during this call? 15 A That's when I talked -- as I told you 16 earlier, that's when they talked about you have 17 options. So I listened. I listened to their 18 options because I'm a courteous person. 19 And at that point when he started asking 20 me the questions and offending me, I told him the 21 phone conversation was over, and I hung up the 22 phone. 23 Q Did either Ferguson or the manager tell 24 you that you needed to make a payment to avoid	Page 45 1 your home? 2 A No. I understood it as trying to collect 3 payment at the time because they were so adamant 4 that I can make a payment by credit card. I can 5 make -- they wanted a payment, that was for sure. 6 Q And that was so you could stay in your 7 home, right? 8 A I don't know if it was to try to -- I 9 don't know what their intention at that point was. 10 Q Do you recall anything else other than 11 what you've told me so far about your call with 12 Green Tree on December 20, 2011? 13 A I mean, as far as? 14 Q Whether either you said or what Ferguson 15 said or what her manager said. 16 A I believe that's -- that was the gist of 17 everything that was talked about. 18 Q Okay. And you don't have any notes or 19 recordings or other records of the call on 20 December 20th? 21 A We didn't record anything. We were -- 22 Q And you didn't make any notes? 23 A No, not that I recall making any notes. 24 As far as what was said, no.
Page 46 1 foreclosure? 2 A I believe so, but I don't -- I believe 3 they did. I can't be a hundred percent sure. 4 Q Did you tell them that you would make a 5 payment when you could? 6 A I don't recall. 7 Q And did you tell them that you wanted to 8 avoid foreclosure or words to that effect? 9 A I don't believe so. 10 Q You were transferred to the manager, and 11 tell me again specifically as best you can recall 12 his exact words what he said that you found 13 offensive. 14 A Well, I found offensive when he was 15 questioning where all my money was going when you 16 haven't been paying on our loan, and what are you 17 doing with your money? 18 Q Okay. 19 A Which, like I said in that point in time, 20 I told him that's none of your business what I'm 21 going through right now. And I told him this phone 22 conversation is over, and I hung up the phone. 23 Q Did you understand from the phone call 24 that Green Tree was trying to help you to stay in	Page 46 1 Q Other than December 20, 2011, were there 2 any other times that you personally spoke with a 3 representative of Green Tree? 4 A Other than December? After December? 5 Q Well, let's start with after December, 6 yeah. 7 A I don't believe so. 8 Q Okay. And then prior to December 20th -- 9 between the discharge and December 20th, do you 10 recall any other conversations that you had 11 personally with someone at Green Tree? 12 A Like I said, I don't remember a specific 13 conversation, but we may have had contact -- I may 14 have spoke with them before that. 15 Q But the only conversation you actually -- 16 A That sticks -- 17 Q Let me finish. The only conversation you 18 actually remember between the discharge and today 19 that you had with Green Tree was on December 20, 20 2011? 21 A Yes. That's the specific conversation 22 that stands out. 23 Q Okay. Let's look at paragraph 25 of 24 your -- of Exhibit 1 where you allege, "Katie

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<p>1 Ferguson also called both of the Debtors' parents 2 inquiring about the Debtors in order to collect upon 3 the subject debt."</p> <p>4 What are the names of the parents whom 5 Green Tree called?</p> <p>6 A Margaret and Joe Pangallo are my parents.</p> <p>7 Q And did they call Katie's parents as well?</p> <p>8 A Correct. I believe.</p> <p>9 Q What's the name?</p> <p>10 A I believe it's her mom, which would be Halina Kuzianik.</p> <p>11 Q So was it Pangallo?</p> <p>12 A Yeah, Pangallo.</p> <p>13 Q Do you know how many times someone at 15 Green Tree called Margaret Pangallo?</p> <p>14 A I don't recall an exact amount. I know 17 that they did leave a message on their voice 18 recording machine.</p> <p>19 Q Do you know what that message said?</p> <p>20 A I believe it was looking for Jeff, and it 21 was Katie Ferguson from Green Tree.</p> <p>22 Q Do you recall anything else from that 23 voicemail?</p> <p>24 A I don't. It wasn't my voicemail, so I</p>	<p>1 Q Have you ever spoken to Halina about the 2 calls from Green Tree?</p> <p>3 A Personally?</p> <p>4 Q Yes.</p> <p>5 A No.</p> <p>6 Q I'd have to ask your wife about that?</p> <p>7 A Sure. Exactly.</p> <p>8 Q All right. And you're not aware of any 9 notes that your mother may have taken from that 10 phone call that currently exist?</p> <p>11 A To be honest with you, no.</p> <p>12 Q Okay.</p> <p>13 A I don't even think she took a note. I 14 mean, she might have written something down for me 15 on a piece of paper, but as far as her taking notes 16 on the phone call, I don't believe so.</p> <p>17 Q Your parents knew about your bankruptcy?</p> <p>18 A No.</p> <p>19 Q They never knew?</p> <p>20 A No.</p> <p>21 Q Did your parents ask why Green Tree was 22 calling you?</p> <p>23 A Did they ask why?</p> <p>24 Q Yes.</p>

Page 50	Page 52
<p>1 don't.</p> <p>2 Q Did you actually hear that voicemail?</p> <p>3 A No, I didn't.</p> <p>4 Q So did your mother tell you the contents 5 of the voicemail?</p> <p>6 A She had told me that they called, left a 7 message, and I believe she wrote down maybe her name 8 and number or something.</p> <p>9 Q Okay. Did your mother tell you anything 10 else about that call?</p> <p>11 A No. That was pretty much it, I believe.</p> <p>12 Q And do you recall any other calls to your 13 parents, being told about any other calls to your 14 parents other than the one you've just referred to?</p> <p>15 A There might have been another one. I'm 16 not sure how many times they called, but I know it 17 was at least once with a voice machine recording.</p> <p>18 Q And the gist of each of the messages was 19 we're looking for Jeff. Please have him call us, 20 something like that?</p> <p>21 A Correct.</p> <p>22 Q Okay. And do you know how many times 23 Green Tree called Halina?</p> <p>24 A That I don't.</p>	<p>1 A Yeah.</p> <p>2 Q What did you tell them?</p> <p>3 A I told them we were going through a rough 4 time, and we'd talk to them about it later.</p> <p>5 Q Did you talk to them about it later?</p> <p>6 A Eventually, yes, we had to because that's 7 where we were moving if -- obviously, you know --</p> <p>8 Q If the -- if you had hadn't been able --</p> <p>9 A If we had to move, when we were getting 10 ready.</p> <p>11 Q -- to modify your --</p> <p>12 A Right.</p> <p>13 Q If you hadn't been able to modify your 14 original loan --</p> <p>15 A Correct.</p> <p>16 Q -- you were going to move in with your 17 parents?</p> <p>18 A Correct.</p> <p>19 Q Okay. Paragraph 26 you allege, "In 20 November 2011, Katie Ferguson called the Debtors' 21 neighbor inquiring about the Debtors in order to 22 collect upon the subject debt."</p> <p>23 What's the name of the neighbor that was 24 called?</p>

<p style="text-align: right;">Page 53</p> <p>1 A Donna and Scott Birmingham. 2 Q Do you know what their phone number was? 3 A What their phone number, home phone 4 number? 5 Q Yeah. 6 A No, offhand I don't. 7 Q The number that Green Tree called? 8 A Yeah, I have no idea. 9 Q Okay. How do you know that Green Tree 10 called the Birminghams? 11 A Because Donna came over and spoke with my 12 wife about it. 13 Q Did you speak with Donna about the call? 14 A No. 15 Q Or Scott did you say? 16 A No. 17 Q So the only thing you know about this call 18 is what your wife then told you, correct? 19 A Correct. 20 Q And what did your wife tell you about 21 Green Tree's calls to Birmingham? Was there more 22 than one call? 23 A I don't -- I'm not sure. I can't answer 24 that question.</p>	<p style="text-align: right;">Page 55</p> <p>1 upon the subject debt and would take that into 2 consideration, as well as call Green Tree to discuss 3 payment of the subject debt." 4 Did you personally speak with this man who 5 visited? 6 A No. I was at work. 7 Q And are you aware of any notes that exist 8 or other documentation regarding this conversation 9 that your wife had with this representative of Green 10 Tree? 11 A Yes. 12 Q What? 13 A A document that he actually handed over to 14 my wife. 15 Q What was that document? 16 THE WITNESS: Do you have the document 17 here? 18 MR. BADWAN: We'll produce that. 19 THE WITNESS: We do have a document that 20 he handed over to my wife. 21 BY MR. BLANKENSHIP: 22 Q That still exists? 23 A I'm not sure exactly off the top of my 24 head what it states, but it does exist. We have a</p>
<p style="text-align: right;">Page 54</p> <p>1 Q What did your wife tell you about the call 2 that Green Tree made to the Birminghams? 3 A Well, that they were calling our neighbors 4 looking for us. 5 Q Anything else? 6 A No. That's pretty much it. 7 Q Okay. Are you aware of any notes or any 8 other documentation of the call from Green Tree to 9 Birmingham? 10 A I'm not aware. 11 Q Are you aware of any other calls that 12 Green Tree made to any of your other neighbors? 13 A I am not aware. 14 Q Are you aware of Green Tree calling anyone 15 other than you, Birmingham, your parents or Katie's 16 parents, you and Katie regarding your house? 17 A No. 18 Q Okay. Paragraph 35 you allege, 19 "Thereafter, a representative of Green Tree sent a 20 large intimidating man to visit the Debtors at the 21 subject property, who rang their doorbell, spoke to 22 them about their ability to pay the subject debt, 23 and stood in the doorway until the Debtors advised 24 him that they understood he was seeking to collect</p>	<p style="text-align: right;">Page 56</p> <p>1 copy, and they have a copy. 2 MR. BADWAN: I'll produce it. 3 BY MR. BLANKENSHIP: 4 Q Okay. And what did your wife tell you 5 about this conversation with the person from Green 6 Tree? 7 A That they came over to the house while she 8 was at home with the kids, and my father-in-law was 9 there with them, happened to be there at the time. 10 Q Okay. Did she tell you anything else 11 about the visitor from Green Tree? 12 A Basically she told me about the visit. 13 The guy came over, handed the papers, said that I 14 needed to call them on this issue right away, and 15 that's what I recall from that. 16 Q And you didn't call Green Tree after that? 17 A Let's see. That was around -- I don't 18 believe so. 19 Q Was this visit after your December 20, 20 2011, phone call with Green Tree? 21 A Yes. 22 Q Do you know -- 23 A Yes, it was. 24 Q Do you know when it was?</p>

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<p>1 A It was in approximately in, I want to say, 2 March of 2011. That's me putting my best -- I mean, 3 I'm not sure of the exact day, date. You know, it 4 was approximately March 2011, though.</p> <p>5 Q When did you last receive a phone call 6 from Green Tree?</p> <p>7 A I want to say April, around April.</p> <p>8 Q Of?</p> <p>9 A 2011 when all the calls stopped. They 10 totally stopped calling if I remember correctly.</p> <p>11 Can I back up for a second?</p> <p>12 Q Yes. Sure.</p> <p>13 A That is -- they just contacted me a month 14 ago regarding -- sorry. The lady told me that 15 because we modified the second one, they hold the 16 lien on the first one. She was sending me paperwork 17 or something like that. And that was the last time 18 Green Tree contacted me.</p> <p>19 Q Okay. I --</p> <p>20 A Nothing to do with, I don't think, you 21 know, as far as the phone calls that Katie Ferguson, 22 I don't know -- to this day, I still have the packet 23 at home. I'm not sure what I'm going to -- what to 24 do with it.</p>	<p>1 correct?</p> <p>2 A Correct.</p> <p>3 Q And very --</p> <p>4 A No, no, no. The last time they were 5 calling --</p> <p>6 Q Right.</p> <p>7 A -- was in April, yes.</p> <p>8 Q The last time Green Tree was calling was 9 in April 2011?</p> <p>10 A Correct.</p> <p>11 Q But about a month ago you were contacted 12 by Green Tree, correct?</p> <p>13 A Correct.</p> <p>14 Q And tell me again what that was about.</p> <p>15 A Okay.</p> <p>16 Q Was it a phone call?</p> <p>17 A Yes. It was a phone call, a message, and 18 she left a message. I returned her phone call.</p> <p>19 Q And what was the message?</p> <p>20 A The message was -- there was a different 21 lady obviously, and she said to give her a call 22 back. She left a phone number and extension.</p> <p>23 Q And you called her back?</p> <p>24 A I called her back, and she explained that</p>
<p>1 Q And I'm a little confused, because I think 2 you used first and second in a way I don't 3 understand. The first mortgage is the one that you 4 have modified, correct?</p> <p>5 A Correct.</p> <p>6 Q Green Tree was the second?</p> <p>7 A Correct.</p> <p>8 Q So Green Tree contacted you and said what?</p> <p>9 A Well, you asked me when was the last time 10 I had contact with them.</p> <p>11 Q Yeah.</p> <p>12 A Regarding the Katie Ferguson phone calls 13 was, like I said, I believe April the phone calls 14 stopped.</p> <p>15 Q Of 2011?</p> <p>16 A But I actually just got contacted, I told 17 you about --</p> <p>18 MR. BADWAN: Don't discuss anything we 19 talked about.</p> <p>20 THE WITNESS: Okay.</p> <p>21 BY MR. BLANKENSHIP:</p> <p>22 Q Let me just back up because I want to make 23 sure I understand. Your last phone call with -- 24 from Katie Ferguson was in April 2011 or so,</p>	<p>1 you modified your first mortgage, and we are sending 2 you a packet. I believe it was a 2MP. Does that 3 sound --</p> <p>4 Q It's whatever. Go ahead.</p> <p>5 A And I'm not -- she sent out the packet, 6 and I still have it.</p> <p>7 Q And did that packet relate to a proposed 8 modification for your second mortgage?</p> <p>9 A What she said it was an extinguishment.</p> <p>10 Q Extinguishment. Of your second mortgage?</p> <p>11 A I'm guessing, yeah, because that's who 12 Green Tree . . .</p> <p>13 Q Okay.</p> <p>14 A It was -- it must be through the HAMP 15 program that we modified because I see it had the 16 HAMP on top of the paper.</p> <p>17 Q In paragraph 36 you allege that, 18 ". . . Debtors suffered damages from Green Tree's 19 actions. . . ."</p> <p>20 What damages have you suffered as a result 21 of Green Tree's phone calls which you contend 22 violate the discharge order?</p> <p>23 A Well, having to explain not on our own 24 terms to our neighbors, our family, and just going</p>

<p style="text-align: right;">Page 61</p> <p>1 through the aggravation of getting bothered day in 2 and day out at work, at home, in the evening, 3 whatever we were doing at the time when we were 4 going through enough.</p> <p>5 Q Okay. When you mean aggravation, that 6 means getting a phone call and pressing the button 7 to reject the call?</p> <p>8 A No, aggravation of being harassed by 9 numerous phone calls and just --</p> <p>10 Q But --</p> <p>11 A The phone conversation that I had with the 12 supervisor I'm assuming.</p> <p>13 Q But the phone calls, you rejected all of 14 them. You didn't actually accept any of the phone 15 calls, correct? That's what we're talking --</p> <p>16 A What about the 54-minute phone 17 conversation?</p> <p>18 Q All right. Which you may have called or 19 they may have called you. You're not sure, right?</p> <p>20 A Right.</p> <p>21 Q Okay. Put that one aside. Let's talk 22 about all the other phone calls that you contend 23 were happening daily, sometimes multiple times a 24 day.</p>	<p style="text-align: right;">Page 63</p> <p>1 anything to any neighbors, correct?</p> <p>2 A No. At a later time we discussed it 3 another time, and they were aware because obviously 4 they knew at that point.</p> <p>5 Q What did you discuss with them, the 6 Birminghams?</p> <p>7 A What was going on with the house. Just 8 what was going on with the house and the situation.</p> <p>9 Q Okay. Tell me exactly what you -- when 10 was this conversation you're referring to now?</p> <p>11 A It was after that it happened. I couldn't 12 tell you, like I said.</p> <p>13 Q And what did you talk about with regard to 14 the house and what was happening? What did you tell 15 them?</p> <p>16 A Well, we told them regarding the phone 17 call the reason being is because of we were going 18 through a tough time, and we were possibly losing 19 the house, in long story short.</p> <p>20 Q Are you out of pocket any money as a 21 result of Green Tree's phone calls?</p> <p>22 A As far as -- could you rephrase? Like --</p> <p>23 Q Yeah. Have you lost -- did you suffer any 24 monetary damages as a result of Green Tree's phone</p>
<p style="text-align: right;">Page 62</p> <p>1 A Yes.</p> <p>2 Q The aggravation of that consisted of you 3 getting a call and seeing it was from Green Tree and 4 pressing a button to reject the call, correct?</p> <p>5 A No. It was listening to messages during 6 meetings at work because she would leave the 7 voicemails, that I told you, things of that nature 8 constantly.</p> <p>9 Q And the voicemails all lasted just a few 10 seconds, correct?</p> <p>11 A Correct.</p> <p>12 Q Have you seen any counselor or 13 psychological, medical professional regarding the 14 effects of Green Tree's calls on you?</p> <p>15 A No, I haven't.</p> <p>16 Q When you say you had to explain it to your 17 neighbors, what neighbor did you have to explain to?</p> <p>18 A The ones that they called.</p> <p>19 Q And that's just Donna Birmingham?</p> <p>20 A Correct.</p> <p>21 Q Did you actually explain anything to Donna 22 Birmingham?</p> <p>23 A No. My wife actually talked to her.</p> <p>24 Q So you haven't actually had to explain</p>	<p style="text-align: right;">Page 64</p> <p>1 calls?</p> <p>2 A No. I mean . . .</p> <p>3 Q And how did your parents react when you 4 explained to them what was going on with Green Tree?</p> <p>5 A As far as the phone call or . . .</p> <p>6 Q Well, yeah. You've said that part of your 7 damages was having to explain to your parents what 8 was going on. And I'm trying to understand -- you 9 explained your situation that you might lose your 10 house, right?</p> <p>11 A Correct.</p> <p>12 Q And that wasn't Green Tree's fault that 13 you might lose your house, correct?</p> <p>14 A Correct.</p> <p>15 Q So any stress related to possibly losing 16 your house wasn't as a result of Green Tree's 17 actions, correct?</p> <p>18 A Correct.</p> <p>19 Q And you explained to your parents that you 20 might lose your house, correct?</p> <p>21 A Yep.</p> <p>22 Q And did that upset them?</p> <p>23 A Obviously I'm sure they were a little 24 upset, I mean . . .</p>

<p style="text-align: right;">Page 65</p> <p>1 Q Well, compared to your losing your house 2 and the emotional impact of losing your house, how 3 did the emotional impact of Green Tree's phone calls 4 compare?</p> <p>5 A Well, because it made you feel -- after 6 the -- when someone was telling you what are you 7 doing with your money when you're struggling, it's 8 pretty rough. I mean, you're not at a good point as 9 it is, and I mean, I don't know if you -- it was a 10 bad time, and that made it worse. That's all I 11 could say about that. I don't know how to explain 12 it.</p> <p>13 Q And I guess I'm trying to understand how 14 much it made it worse. It's pretty bad that you're 15 going to lose your house, right? I mean, that's 16 very difficult for you to go through, losing your 17 house?</p> <p>18 A Correct.</p> <p>19 Q And how much worse was it made by the 20 virtue of your one phone conversation with Green 21 Tree?</p> <p>22 A Are you asking me a scale?</p> <p>23 Q Yeah.</p> <p>24 A I couldn't tell you. I mean, what do you</p>	<p style="text-align: right;">Page 67</p> <p>1 A They called one time, which I answered. 2 They explained everything to me. They told me about 3 the documents I would need to submit, and that was 4 it. They told -- once we submitted them, they said 5 three months we will get back to you.</p> <p>6 Q Did they ask you for payment on this phone 7 call?</p> <p>8 A No.</p> <p>9 Q They just told you you may be eligible for 10 loan modification?</p> <p>11 A Correct.</p> <p>12 Q Okay. When Green Tree called and you 13 talked to them, would they always ask for payment?</p> <p>14 MR. BLANKENSHIP: Well, objection, lack of 15 foundation. There's only been one actual 16 conversation he had with Green Tree. So if you're 17 going to ask questions about phone calls, please be 18 specific.</p> <p>19 BY MR. BADWAN:</p> <p>20 Q Well, I'm trying to get the relative tone 21 of the two conversations that you've had with 22 Bayview and the one you had with Green Tree. I 23 believe it was Katie Ferguson you testified?</p> <p>24 A Correct.</p>
<p style="text-align: right;">Page 66</p> <p>1 want? How do I answer that?</p> <p>2 Q I don't know. I'm trying to understand 3 the relative emotional suffering that you went 4 through.</p> <p>5 A I mean, that's like saying you're down 6 then someone kicks you, how -- I couldn't answer 7 that. I'm sorry, I don't know how to ...</p> <p>8 MR. BLANKENSHIP: Okay. I don't think I 9 have any other questions for you.</p> <p>10 MR. BADWAN: Okay. Do you mind if I ask 11 questions?</p> <p>12 MR. BLANKENSHIP: Sure.</p> <p>13 CROSS-EXAMINATION</p> <p>14 BY MR. BADWAN:</p> <p>15 Q Mr. Modica, you testified earlier that 16 Bayview reached out to you for a loan modification. 17 Could you please explain how they reached out to 18 you?</p> <p>19 A A phone call.</p> <p>20 Q Okay. Now, did -- were they calling three 21 to five times a day?</p> <p>22 A No.</p> <p>23 Q How many times did they call, 24 approximately?</p>	<p style="text-align: right;">Page 68</p> <p>1 Q Describe the difference of the nature of 2 the call and the tone of the call. So start with 3 Bayview, the tone and nature of the call. Was it 4 unfriendly, friendly? So do you understand the 5 question or should I rephrase?</p> <p>6 A I do. It was obviously totally different 7 as I told you what the content of the voicemails 8 were when she was telling me I need to call her 9 back.</p> <p>10 Bayview was trying to -- they reached out 11 to me, which was surprising, and just told me my 12 options of a modification and what I need to do to 13 accomplish that.</p> <p>14 Q Did they -- did Bayview ask you why you 15 haven't been paying your loan?</p> <p>16 A No, not at all.</p> <p>17 Q And Bayview only called you once, correct?</p> <p>18 A Correct.</p> <p>19 Q You indicated that you defaulted on both 20 loans when your wife stopped working. Why did she 21 stop working?</p> <p>22 A We have two small children.</p> <p>23 Q So she stayed at home with them?</p> <p>24 A Correct.</p>

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<p>1 Q To the best of your knowledge, did Green 2 Tree ever foreclose on you? Did they ever file a 3 lawsuit to foreclose on the property?</p> <p>4 A I don't believe so.</p> <p>5 Q Do you remember the closing on the house 6 where you signed the papers to purchase the home?</p> <p>7 A Originally?</p> <p>8 Q Yes.</p> <p>9 A Vaguely, not very well.</p> <p>10 Q Well, let's focus on Green Tree's second 11 mortgage. Was your wife with you when you took out 12 that loan?</p> <p>13 A I believe so.</p> <p>14 Q Okay. Now, were those loans both obtained 15 at the same time, which is the loans of 80/20, so 16 that they both funded the initial purchase, or was 17 that a home equity line with Green Tree?</p> <p>18 A No. I know what you're trying to get at. 19 They were separate. There was a first and a second.</p> <p>20 Q Now, was your wife liable on the note, and 21 I want to explain what that means. Was she there 22 with you when you took that loan out?</p> <p>23 A The second?</p> <p>24 Q Yes, the Green Tree.</p>	<p>1 Q Did you kind of feel it was an invasion of 2 privacy in any way?</p> <p>3 MR. BLANKENSHIP: Objection, form of the 4 question.</p> <p>5 BY MR. BADWAN:</p> <p>6 Q Were you scared people were going to find 7 out about your financial situation?</p> <p>8 MR. BLANKENSHIP: Same objection.</p> <p>9 BY MR. BADWAN:</p> <p>10 Q Did you find the calls to be harassing?</p> <p>11 A Yes.</p> <p>12 Q Why did you find them to be harassing? If 13 you didn't answer the phones, why did you find them 14 to be harassing?</p> <p>15 A As I told him, I was called almost every 16 day. I was at work. You know, I was running a job, 17 which is stressful enough. My phone is ringing 18 already a lot, and that adds to it.</p> <p>19 Q When you talked to Katie Ferguson on 20 December 20, 2011, did Katie ever acknowledge the 21 bankruptcy filing?</p> <p>22 A When I talked to Green Tree, December?</p> <p>23 Q December 20th, that was the long call I 24 believe, the 54-minute call?</p>
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<p>1 A I believe so.</p> <p>2 Q She was there; she signed papers?</p> <p>3 A I -- I don't recall if she actually signed 4 the papers, but she was there.</p> <p>5 Q Did she provide her number to Green Tree?</p> <p>6 A I don't believe so. I'm not a hundred 7 percent sure. I don't see why she would.</p> <p>8 Q Now, in the conversation you had with 9 Katie Ferguson in December of 2011, did you ever 10 tell Katie or her supervisor, or who you assumed to 11 be a supervisor, that you want to stay in the home?</p> <p>12 A No.</p> <p>13 Q You never gave them intent, I'll do what 14 it takes or anything like that?</p> <p>15 A I do not believe so.</p> <p>16 Q How did it make you feel when they were 17 calling third parties, by third parties I mean your 18 neighbor and your parents? Let's start with your 19 neighbor. She called your wife you testified 20 earlier. Presumably when your wife told you, how 21 did that make you feel?</p> <p>22 A As I told him, not good. I mean, you 23 feel -- like I said, the whole situation was already 24 hard.</p>	<p>1 A Right.</p> <p>2 Q Did they say, "Mr. Modica, you filed for 3 bankruptcy. You're not liable for this debt. 4 However, we still have a lien. We may have 5 something to work out with you"?</p> <p>6 A I don't believe so.</p> <p>7 Q Did you ever tell them you filed for 8 bankruptcy?</p> <p>9 A I believe so, yes.</p> <p>10 Q And how did they respond to that?</p> <p>11 A As I said, I'm not sure the exact -- I 12 don't know what they said after that as far as the 13 exact phone conversation.</p> <p>14 Q But they would request payment after you 15 told them?</p> <p>16 A Correct.</p> <p>17 Q When you took out the loan with Green 18 Tree, did you give them your neighbor's number?</p> <p>19 A No.</p> <p>20 Q Did you give them your parents' number?</p> <p>21 A No, I don't believe so.</p> <p>22 Q So you never gave them Margaret Pangallo's 23 number?</p> <p>24 A I don't believe so, no.</p>

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<p>1 Q Or Halina Kuzianik?</p> <p>2 A Kuzianik. I don't believe so, no.</p> <p>3 Q Did you ever give them Donna or Scott</p> <p>4 Birmingham's number?</p> <p>5 A No.</p> <p>6 Q Do you have any idea how they would have</p> <p>7 gotten those numbers?</p> <p>8 A I don't have a clue. I mean . . .</p> <p>9 Q Now, you testified earlier that you were</p> <p>10 already struggling through a financial hardship, and</p> <p>11 this added more stress. How did the supervisor by</p> <p>12 him telling you, "What are you doing with your</p> <p>13 money?" make you feel?</p> <p>14 A Not good.</p> <p>15 Q Almost made you feel like a dead beat?</p> <p>16 MR. BLANKENSHIP: Objection, form of the</p> <p>17 question.</p> <p>18 A Like a loser, like you're not doing what</p> <p>19 you're supposed to be doing when that's not the type</p> <p>20 of person I am, I mean, just to begin with.</p> <p>21 BY MR. BADWAN:</p> <p>22 Q Why do you think they called your</p> <p>23 neighbor?</p> <p>24 MR. BLANKENSHIP: Object to the form of</p>	<p>1 wasn't making a payment no matter what is when he</p> <p>2 came on the line.</p> <p>3 Q Do you recall if you had to approximate</p> <p>4 how long you were on the phone with Katie as opposed</p> <p>5 to the supervisor? Just an approximation. If you</p> <p>6 can recall. If you don't recall --</p> <p>7 A I have to be honest with you, I cannot</p> <p>8 approximate because I don't remember.</p> <p>9 Q Was he more aggressive than Katie, the</p> <p>10 supervisor?</p> <p>11 A Yes. I would say yes.</p> <p>12 Q And what would you base that on?</p> <p>13 A I base that on the questions he asked me.</p> <p>14 Q Okay. Could you, if you can remember what</p> <p>15 questions he asked, could you please repeat those?</p> <p>16 A Well, as I told him, he was asking me what</p> <p>17 I did with my money the whole time; that I should</p> <p>18 have the money to make a payment because I haven't</p> <p>19 been paying.</p> <p>20 Q Did you tell the supervisor that you filed</p> <p>21 bankruptcy?</p> <p>22 A Yes.</p> <p>23 Q What was his response?</p> <p>24 A I don't remember his exact response as far</p>
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<p>1 the question.</p> <p>2 MR. BADWAN: What's wrong with the form?</p> <p>3 MR. BLANKENSHIP: Speculation. There's no</p> <p>4 foundation he knows why -- no reason to think he</p> <p>5 would know why they called his neighbor. He's</p> <p>6 guessing.</p> <p>7 BY MR. BADWAN:</p> <p>8 Q Why would you guess they called your</p> <p>9 neighbor?</p> <p>10 MR. BLANKENSHIP: Object to the form of</p> <p>11 the question. Now you're asking him to guess.</p> <p>12 BY MR. BADWAN:</p> <p>13 Q Now, you were on the -- you were talking</p> <p>14 to Katie Ferguson for a while. At what point did</p> <p>15 she transfer you to her what you thought would be a</p> <p>16 supervisor? Tell us more about that. I mean,</p> <p>17 something must have happened that she would need</p> <p>18 someone else to come on the line. Do you recall why</p> <p>19 it was transferred?</p> <p>20 A I believe -- like I said, I don't remember</p> <p>21 the length of the phone conversation between the</p> <p>22 supervisor split time with Katie Ferguson. But I do</p> <p>23 remember that she was trying to get me to make a</p> <p>24 payment. And once she probably realized that I</p>	<p>1 as his exact words.</p> <p>2 Q All right. You testified earlier that the</p> <p>3 last call was in April 2011?</p> <p>4 A Approximately.</p> <p>5 Q However, you also testified that you</p> <p>6 reviewed these pleadings, and it said that the long</p> <p>7 conversation with Katie Ferguson was on December 20,</p> <p>8 2011. Were you perhaps mistaken when you said April</p> <p>9 of 2011? Should it have been 2012?</p> <p>10 A Oh, I'm sorry. Possibly, yes.</p> <p>11 Q Okay. So that conversation with Katie</p> <p>12 Ferguson definitely happened after April 2011?</p> <p>13 A Wait. I'm confused.</p> <p>14 Q So at one point you were asked if you</p> <p>15 reviewed these pleadings, and you said, yes, you</p> <p>16 did. And you were asked if they seemed accurate?</p> <p>17 A Correct.</p> <p>18 Q You said, yes, they were accurate. But at</p> <p>19 one point you said that the last call you received</p> <p>20 from Green Tree was April 2011. However, the call</p> <p>21 with Katie Ferguson is December 2011. So --</p> <p>22 A April 2012.</p> <p>23 Q So you meant April 2012?</p> <p>24 A Yeah, sorry.</p>

<p style="text-align: right;">Page 77</p> <p>1 Q Are you sure about that? 2 A Yes. 3 Q So that was just a mistake? 4 A Yes. 5 Q It was just a calculation, okay. 6 MR. BLANKENSHIP: That's what I understood 7 you to mean. 8 MR. BADWAN: Oh, okay. 9 MR. BLANKENSHIP: I mean, they continued 10 after December 2011. 11 MR. BADWAN: I just wanted to clarify 12 that. 13 MR. BLANKENSHIP: No, no, I'm glad you 14 did. I didn't catch it myself. 15 THE WITNESS: All these dates. I'm trying 16 to do my best to -- 17 MR. BADWAN: Yeah. No, absolutely. It 18 was a couple years ago, so we understand. We just 19 wanted to clarify that. 20 BY MR. BADWAN: 21 Q And then they called you again you said a 22 couple months ago? 23 A On the other, as I explained to him, yes. 24 It was not the same lady that was calling, though.</p>	<p style="text-align: right;">Page 79</p> <p>1 A I can't say every single call. I would 2 say 90 percent of them, yes. 3 Q Now, that -- back to the December 4 conversation with Katie Ferguson, from what you 5 recall, that was probably one of the only times you 6 actually spoke to someone with Green Tree, correct? 7 A That I recall that sticks out, yes. 8 Q Did she tell you the call was being 9 recorded? 10 A I believe -- I believe so. I'm not a 11 hundred percent, but I believe so. 12 Q Now, let's talk about the man that came to 13 your house. You were not -- you testified you were 14 not home, correct? 15 A Correct. I was at work. 16 Q When did your wife tell you this man came 17 to your house, was it when you got home, was it -- 18 did she call you? 19 A It was either I would imagine when I got 20 home, or she called after it happened. 21 Q What was her reaction to a man coming to 22 your house? 23 A Well, at first I was obviously upset and 24 mad.</p>
<p style="text-align: right;">Page 78</p> <p>1 Q Was your wife frustrated by the calls? 2 Did she express frustration or anger? 3 A Of course. 4 Q Did it ever cause any strain between you 5 and her? 6 A Of course. 7 Q Please elaborate on that. 8 A Well, just having to discuss it on top of 9 everything else at the time is stressful. Spending 10 time when we have children and other things that 11 needs our time, spending any amount of time on 12 things of that nature to me is stressful. 13 Q Was it almost a reminder that you were 14 getting kicked out of your house? 15 A Well, for sure. Every time I saw the 16 phone number, call my phone it was a reminder. 17 Q And it was the same number every time? 18 A Yes. 19 Q And Ms. Ferguson would always -- she would 20 always state her name in the voicemails that she 21 would leave? 22 A Yes. 23 Q And would she leave a voicemail on every 24 single call?</p>	<p style="text-align: right;">Page 80</p> <p>1 Q What was her reaction from what you can -- 2 you know, you know your wife. You guys have been 3 married for a while. 4 A I think she was startled. I mean, she's 5 there with the kids. She was a little startled, and 6 then obviously intimidated I would say. She didn't 7 know obviously when he was coming up to the door -- 8 you know, she didn't know what was going on or what 9 his intention was or -- you know. 10 Q Did the large intimidating man ever ask 11 your wife, "Are you guys staying here for a while? 12 What's your intent?" 13 MR. BLANKENSHIP: Objection, calls for 14 speculation. He wasn't there. 15 BY MR. BADWAN: 16 Q Did your wife tell you? Did your wife 17 tell you that the intimidating man, as she described 18 it, did he ask what your intent was with the house? 19 A I can't be for sure what she told -- or 20 what he told her as far -- 21 Q Well, do you remember what she told you he 22 told her? 23 MR. BLANKENSHIP: I just object to 24 hearsay.</p>

<p style="text-align: right;">Page 81</p> <p>1 MR. BADWAN: Lacks a little evidence, 2 okay.</p> <p>3 BY MR. BADWAN:</p> <p>4 Q Outside of Katie Ferguson, anyone else -- 5 and the supervisor, anyone else ever leave 6 voicemails -- or outside of Katie Ferguson, the 7 intimidating -- or the supervisor never left 8 voicemails. It was always Katie Ferguson?</p> <p>9 A Yes.</p> <p>10 Q So it's almost like you always had this 11 Katie Ferguson lady, nobody else, correct?</p> <p>12 A Correct.</p> <p>13 Q What did you tell -- or do you know what 14 your wife told your neighbor why Green Tree is 15 calling for them?</p> <p>16 MR. BLANKENSHIP: Objection, calls for speculation.</p> <p>17 BY MR. BADWAN:</p> <p>18 Q Did your wife tell you what she told your neighbor as to why Green Tree was calling?</p> <p>19 A Not --</p> <p>20 MR. BLANKENSHIP: Objection, hearsay.</p> <p>21 MR. BADWAN: What is -- what's wrong with that? Hearsay?</p>	<p style="text-align: right;">Page 83</p> <p>1 modification package like Bayview did?</p> <p>2 A I don't believe so.</p> <p>3 Q Where it said if you make these three 4 payments, we're going to make your loan current?</p> <p>5 A I don't believe so.</p> <p>6 Q And you stated that Bayview called one 7 time, correct?</p> <p>8 A Correct.</p> <p>9 Q Why did you pick up that call?</p> <p>10 A Because I answered the phone call. I 11 didn't -- it was -- I didn't know the number, and I 12 answer my phone.</p> <p>13 Q Okay. And do you remember how long that 14 Bayview call lasted for?</p> <p>15 A The initial call?</p> <p>16 Q Yeah.</p> <p>17 A I would -- to the minute, obviously not, 18 but I would assume -- I remember when I was talking 19 to them what job I was at, and approximately I would 20 say 15 minutes.</p> <p>21 Q And the tone was different between the 22 Bayview calls and the Green Tree calls?</p> <p>23 A Obviously, yes.</p> <p>24 Q In what ways were they different?</p>
<p style="text-align: right;">Page 82</p> <p>1 MR. BLANKENSHIP: If his wife was telling 2 him what she --</p> <p>3 BY MR. BADWAN:</p> <p>4 Q Obviously a neighbor comes to your wife 5 and says, hey -- or what your wife told you, someone 6 from Green Tree called. Would that be accurate?</p> <p>7 A Yes.</p> <p>8 Q Did your wife ever tell you how she 9 responded to why?</p> <p>10 A Specifics? I don't recall specifics the 11 conversation of what she told me she talked to her 12 about.</p> <p>13 Q Do you know what your wife told her mom 14 when they called her why they were calling? Did you 15 guys ever have a conversation about that?</p> <p>16 A Specifically, no. I mean, I don't know exactly what my wife said to -- I couldn't answer that honestly because I don't know a hundred percent.</p> <p>20 Q Now, I want to make something clear. You 21 never told Green Tree you want to stay in the house. 22 Would that be accurate?</p> <p>23 A That would be accurate.</p> <p>24 Q Did Green Tree send you a loan</p>	<p style="text-align: right;">Page 84</p> <p>1 MR. BLANKENSHIP: Asked and answered.</p> <p>2 BY MR. BADWAN:</p> <p>3 Q Have you done any research on -- did you 4 ever go on Google and put "Green Tree, continuous 5 calls" or anything? Did you ever look into this 6 matter why they were calling, why Green Tree was 7 calling you so many times? Did you ever kind of 8 investigate what's going on here, and why are they 9 calling so much?</p> <p>10 A Actually, yes.</p> <p>11 Q Tell me more about that.</p> <p>12 A I went on the computer and just did a search of this type of situation and found that -- I 14 found other people who was going through the same 15 thing.</p> <p>16 Q So kind of same exact thing?</p> <p>17 A Right.</p> <p>18 Q Kind of same person calling them continuously?</p> <p>20 A Correct.</p> <p>21 MR. BLANKENSHIP: I object to the form of the question. I object to him testifying as to what his Internet searches may have shown as hearsay, and 24 I'm not quite sure why you're wasting time in a</p>

<p style="text-align: right;">Page 85</p> <p>1 deposition with this. But he can answer your 2 questions.</p> <p>3 BY MR. BADWAN:</p> <p>4 Q Did your kids ever ask you who that man 5 was that came to the house or your wife if she told 6 you?</p> <p>7 A I don't recall because I wasn't at that -- 8 I wasn't home at that time.</p> <p>9 Q And how old were your kids at the time if 10 you had to approximate when this large intimidating 11 man showed up to your house?</p> <p>12 A Approximately two and three.</p> <p>13 Q And do you remember --</p> <p>14 MR. BADWAN: I have no further questions.</p> <p>15 MR. BLANKENSHIP: I just have a couple 16 follow-ups.</p> <p>17 REDIRECT EXAMINATION</p> <p>18 BY MR. BLANKENSHIP:</p> <p>19 Q Did it ever occur to you that Green Tree 20 kept calling because you weren't returning the 21 calls?</p> <p>22 A No, not necessarily.</p> <p>23 Q No? If these calls, these voicemails that 24 Katie was leaving you asking her to call her back</p>	<p style="text-align: right;">Page 87</p> <p>1 STATE OF ILLINOIS) 2 COUNTY OF COOK) SS. 3 4 I, DENIELLE P. MATHYS, Certified Shorthand 5 Reporter No. 084-003933, and Notary Public within 6 and for the County of Kane and State of Illinois, do 7 hereby certify that on December 18, 2013, at 8 9:26 a.m., at 150 North Michigan Avenue, Suite 2130, 9 in the City of Chicago, Illinois, the deponent, 10 JEFFREY R. MODICA, personally appeared before me. 11 I further certify that JEFFREY R. MODICA, 12 was by me duly sworn to testify the truth and that 13 the foregoing is a true record of the testimony 14 given by JEFFREY R. MODICA. 15 I further certify that the deposition 16 terminated at 10:51 p.m. 17 I further certify that there were present 18 at the taking of the said deposition the persons and 19 parties as indicated on the appearance page made a 20 part of this deposition transcript. 21 I further certify that the signature of 22 the witness to the foregoing deposition was waived 23 by agreement of counsel; and that I am not counsel 24 for nor in any way related to any of the parties to</p>
<p style="text-align: right;">Page 86</p> <p>1 were so aggravating to you, why didn't you just call 2 her back and tell her, "Stop calling me"?</p> <p>3 A Well, that's probably why I answered the 4 phone call on December 20th.</p> <p>5 Q Okay. Why did it take you from September, 6 October, November, December to finally answer the 7 call and say, "Stop calling me"?</p> <p>8 A I couldn't answer. I don't know.</p> <p>9 Q They weren't that aggravating, right?</p> <p>10 A No, they were pretty aggravating.</p> <p>11 Q But not aggravating enough for you to pick 12 up the phone, call and say stop calling me until 13 they had been going on for three months, right?</p> <p>14 A They were aggravating enough.</p> <p>15 MR. BLANKENSHIP: That's all I have.</p> <p>16 You have the right to reserve your 17 signature, read the transcript if you want.</p> <p>18 MR. BADWAN: We'll waive signature. 19 (WITNESS EXCUSED.)</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p>	<p style="text-align: right;">Page 88</p> <p>1 this suit, nor am I in any way interested in the 2 outcome thereof.</p> <p>3 IN TESTIMONY WHEREOF, I have hereunto set 4 my hand and affixed my notarial seal on this 30th 5 day of December, 2013.</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12 DENIELLE P. MATHYS, CSR Notary Public CSR License No. 084-003933</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p>

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